

REMARKS

Claims 1-20 are pending.

Interview Summary

On October 7, 2004, a telephonic interview was held between Chad W. Swantz, Attorney for Applicant and Examiner Scott T. Baderman. Claims 1, 6 and 7 were discussed, a discussion regarding the Examiner's position with respect to claim 7 was held. An agreement regarding the status of claims 1, 6 and 7 was not reached.

Claim Rejections- 35 USC § 103

The Patent Office rejected claims 1-20 under 35 USC § 103(a) as being unpatentable over Fuchs et al., U.S. Patent No. 6,141,770 (Fuchs).

Applicant respectfully traverses the rejection. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Ryoka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974). See also *In re Wilson*, 165 U.S.P.Q. 494 (C.C.P.A. 1970). Applicant respectfully submits that elements of claims 1, 8 and 15 have not been taught, disclosed or suggested by Fuchs. For example, claims 1, 8 and 15 recite comparing first and second items of data, and if they do not match, reading and comparing a third item of data to one of the first and second items of data.

The Patent Office correctly states that Fuchs fails to disclose comparing first and second items of data, and if they do not match, reading and comparing a third item of data to one of the first and second items of data. (Office Action of September 8, 2004, Page 2). However, it is respectfully submitted that a person of ordinary skill would not be motivated to comparing first and second items of data, and if they do not match, reading and comparing a third item of data to one of the first and second items of data after a reading of Fuchs. The Patent Office suggests Fuchs discloses reading data from a

first, second and third storage device at the same time. (Office Action of September 8, 2004, Page 3).

Applicant respectfully submits the Patent Office has failed to understand the technology in which the present invention is related. The present invention is related to a system and method for data verification in a RAID system. (Instant Application, Page 2, Lines 5-6). The present application is directed to a method of preventing unreliable drive type errors without involving a significant performance degradation. (Instant Application, Page 2, Lines 22-22, Emphasis Added). It is well known that users desire fast access to data. By employing the system disclosed in Fuchs as interpreted by the Patent Office, additional processing and time would be required. A third item of data would be read on each data access request. In the present application, a third item of data is only read when an error has been detected. This is advantageous as it provides fast data access while employing data verification. Thus, Fuchs does not teach, disclose or suggest comparing first and second items of data, and if they do not match, reading and comparing a third item of data to one of the first and second items of data.

As a result, Fuchs fails to teach, disclose or suggest every element of claims 1, 8 and 15. Under *In re Ryoka*, a *prima facie* case of obviousness has not been established for claims 1, 8 and 15. Consequently, claims 1, 8 and 15 should be allowed, claims 2-7, 9-14 and 16-20 should be allowed due to their dependence upon an allowable base claim.


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CONCLUSION

In light of the forgoing, reconsideration and allowance of the claims is earnestly solicited.

Respectfully submitted,
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